

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

December 2, 2009

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No. 08-41329  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

DAVID J. DAVIS

Plaintiff-Appellant

v.

GARY JOHNSON, Texas Prison Director; JOSE DELAROSA, Sergeant; HILL,  
Corrections Officer; JOHN DOE, Corrections Officer; RAMON COVARRUBIAS;  
STEVEN KONCABA

Defendants-Appellees

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 3:06-CV-368

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Before JOLLY, WIENER and ELROD, Circuit Judges.

PER CURIAM:\*

Plaintiff-Appellant, Texas prisoner 582332, appeals the district court's grant of summary judgment in favor of Defendants-Appellees; specifically, the grant of qualified immunity to Defendants-Appellees in their individual capacities and the dismissal of claims against them in their official capacities on grounds of sovereign immunity while denying additional claims for injunctive

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

relief. Davis's action arises from an incident in which, by his own allegations, he resisted repeated orders of prison officials to submit to restraints by placing his hands behind him for such restraints to be affixed. Davis failed to meet his burden of alleging or adducing evidence to support the use of excessive force against him or injuries sufficiently severe and enduring to constitute a violation of his constitutional rights. Our review of the record on appeal and the applicable law satisfies us that all rulings of the district court are correct and free of reversible error. Accordingly, the judgment from which Davis appeals is affirmed, and his Motion For Appointment Of Counsel is denied.

**JUDGMENT AFFIRMED; MOTION DENIED.**